



Day in Court

Emma Perez Trevino

January 14, 2015

Opponents and supporters of President Barack Obama's enforcement of immigration laws, absent comprehensive immigration reform, meet in federal court today as states, elected officials, and organizations defend their positions.

U.S. District Judge Andrew Hanen will hear arguments on a request for a preliminary injunction filed by Texas and 24 other states on the deferred removal of about five million undocumented immigrants.

This hearing is in connection with the Dec. 3 lawsuit states filed against Obama, U.S. Attorney General Eric H. Holder Jr., Department of Homeland Security Secretary Jeh Johnson, U.S. Customs and Border Protection Commissioner R. Gil Kerlikowske, U.S. Citizenship and Immigration Services Director Leon Rodriguez, U.S. Border Patrol Deputy Chief Ronald D. Vitiello and U.S. Immigration and Customs Enforcement Acting Director Thomas S. Winkowski.

"This lawsuit is not about immigration. It is about the rule of law, presidential power, and the structural limits of the U.S. Constitution," the states argue. They maintain that Obama's executive actions are unconstitutional and unprecedented, and that the Constitution vested Congress with the exclusive authority to make law and set immigration policies.

Texas' U.S. senators John Cornyn and Ted Cruz, with other senators and representatives support the states' position, as does the American Center for Law & Justice, the Committee to Defend the Separation of Powers, and the Cato Institute.

On the other hand, the Obama administration has argued that the Constitution and Congress have vested the Executive Branch and the Secretary of Homeland Security in particular, with broad discretion over the enforcement of federal immigration law, including determining whether and when to remove particular undocumented immigrants. They say that the states seek to effectively commandeer federal enforcement prerogatives.

U.S. Rep. Filemon Vela is supporting the president's position, as does the American Immigration Council, American Immigration Lawyers Association, Define American, National Immigrant Justice Center, National Immigration Law Center, New Orleans Workers Center for Racial Justice, Service Employees International Union, Southern Poverty Law Center, United We Dream, the Major Cities Chiefs Association, Police Executive Research Forum, individual sheriffs and police chiefs, and the states of Washington, California, Connecticut, Hawaii, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, and Vermont, and the District of Columbia.

Vela stated in his brief that Texas and the other states that filed the lawsuit lack standing.

“Just last month a federal district court denied a motion for a preliminary injunction and dismissed a similar challenge for lack of jurisdiction,” Vela said.

Hanen has denied the request to participate in the case of a Florida goat farmer, and California dentist and attorney Orly Taitz's request that her immigration lawsuit, which is pending, be consolidated with that of the states' case.